THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.9376 of 1996

Dated:01-02-2007

Between:-

M/s. Chowgule Matrix Hobs Limited,
Patancheru, Medak district,
Rep., by its Executive Vice President,
Mr. S.V. Shanmugam

..Petitioner

And

Hon'ble Industrial Tribunal No.II,
2nd Floor, Chandra Vihar, M.J. Road,
Hyderabad rep., by Chairman and two others.

..Respondents.

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No. 9376 of 1996

:O R D E R:

This writ petition is filed being aggrieved by the award dated 23-11-1995 made in I.D.No. 236 of 1994 on the file of Industrial Tribunal-II, Hyderabad. The management is the petitioner. Second respondent-Union raised a dispute and ultimately the same was referred to the Industrial Tribunal, Hyderabad-II under Section 10(1)(C) of the Industrial Disputes Act, 1947 for adjudication of the following issue:

> "Whether the workmen of Chowgule Matrix Hobs Ltd., are entitled for wages for the period of lock out declared by the management of Chowgule Matrix Hobs Ltd., Patancheru from 06-06-1986 to 13-09-1986?"

On behalf of the Union, W.Ws.1 and 2 were examined and Exs.W.1 to W.11 were marked. On behalf of the management, M.Ws. 1 to 3 were examined and Exs.M.1 to M.21 were marked. After detailed consideration of both oral and documentary evidence, the Tribunal came to the conclusion that the members of the respondent-Union are entitled for wages from 01-08-1986 to 13-09-1986 since the petitioner-management failed to show that they have lifted the lock out as advertised in papers with effect from 01-09-1986 as per Ex.M.14. The announcements were also made in the newspapers as per Exs.M.15, 16 and 19. However, the tribunal gave a finding that the lock out was

lifted from 01-09-1986 and it was notified and technically the workman may not be entitled for wages from 01-09-1986 but it was agreed by M.W.1 that canteen facilities and other things were not provided. Further it is held that technically speaking perhaps the workmen may not entitled to wages from 01-09-1986 to 13-09-1986 but as they are denied wages for 56 days from 06-06-1986 to 31-07-1986, that if these thirteen (13) days wages were given that would amount to almost 23% of the wages for the said loss of the wages from 6-6-1986 to 31-07-1986. Naturally, it requires some time to restore normalcy once the strike is lifted. As per Ex.M.5 settlement, workmen reported to duty. Aggrieved by the same, the writ petition is filed.

Learned counsel for the petitioner strenuously contended that the lock out was lifted with effect from 01-09-1986. Therefore, it was not available for the labour court to give a finding that technically speaking perhaps the workmen may not be entitled for wages from 01-09-1986 to 13-09-1986 but as they were denied wages for 56 days from 06-06-1986 to 31-07-1986, the payment of 13 days wages would be justified.

Whereas the learned counsel for the respondent supported the award passed by the labour court and submitted that the labour court has not committed any illegality or irregularity calling for interference of this court.

I have given my earnest consideration to the respective submissions made by either counsel and perused the impugned award and other material available on record.

It is an admitted fact that the management lifted lockout from 01-09-1986 and therefore I am of the considered opinion that the labour court went wrong in granting wages for the period from 01-09-1986 to

13-09-1986. No concession can be extended in a case of this nature. May be, the members of the respondent-Union were entitled for 56 days wages from

06-06-1986 to 31-07-1986 since they were on strike. But no charity or concession could have been extended by the labour court for awarding wages for 13 days from 01-09-1986 to 13-09-1996 saying that technically speaking perhaps the workmen may not be entitled for wages from 01-09-1986 to 13-09-1986 but as they were denied wages for 56 days from 06-06-1986 to 31-07-1986, if these 13 days wages are given that would amount to almost 23% of the wages of the said loss, that the lock out was lifted from 01-09-1986 but there was no canteen facility etc., were provided by the management. In these circumstances, the impugned order is liable to be set aside insofar as allowing wages from

01-09-1986 to 13-09-1986. To this extent, the award passed by the labour court is set aside. The writ petition is allowed in part. There shall be no order as to costs.

_____

C.V. RAMULU, J

Dated: 01-02-2007.
Pvks/*